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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,221	02/28/2002	Francois Gugumus	PP/1-21480/A/CONT 2	8591
324	7590	03/11/2004	EXAMINER SZEKELY, PETER A	
CIBA SPECIALTY CHEMICALS CORPORATION PATENT DEPARTMENT 540 WHITE PLAINS RD P O BOX 2005 TARRYTOWN, NY 10591-9005			ART UNIT 1714	PAPER NUMBER
DATE MAILED: 03/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,221

Applicant(s)

GUGUMUS, FRANCOIS

Examiner

Peter Szekely

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1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/211,197.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/404.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following: On pages 1, 47-49, 53 and 80-86 the oxides and hydroxides of Ca, MG and Zn are called salts of these metals. This is incorrect. A salt is a reaction product of an acid and a base.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 14-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The stabilizer system being essentially free of perchlorate (claim 14), and the synthetic polymer not being a chlorine-containing polymer (claims 22 and 28), are statements, which have no antecedent basis in the original specification. Negative limitations have to have explicit antecedent basis in the original specification. A Preliminary Amendment filed after the original filing date is not part of the original specification. None of the two continuations have been CIP-s.

Claim Rejections - 35 USC § 112

4. Claims 14-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Oxides and hydroxides of metals are not salts. A salt has to be the reaction product of an acid and a base.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 14-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gugumus 4,929,652, Masina 5,134,181, Canova 5,180,762 or Betso et al. 6,262,161. Gugumus discloses polyolefins, HALS, salts and pigments with UV stabilizers in claims 1-13. In column 22, lines 60-69 the reference states that mixtures of several magnesium salts or several zinc salts or mixtures of zinc salts and magnesium salts can be used. Since the preferred concentration of the salts is .005-0.5%, the ratio of any two salts has to fall between applicants' claimed limits. Masina teaches polyethylene, HALS and one or more oxides or hydroxides of Zn or Mg in claim 1. In claim 2 he additionally claims one or more salts of Ca, Mg or Zn. In claim 16 the ratios of components B and C are claimed, encompassing applicant's claimed ratio. See also

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column 19, lines 29-34. For UV absorbers see column 21, lines 3-47. Canova recites polypropylene, HALS and one or more oxides and hydroxides of Mg, Ca or Zn in claim

1. A blend of MgO and ZnO is shown in column 16, lines 17-28 and again in the claimed concentration range the mixture has to conform to applicant's claimed range.

UV absorbers are shown in columns 18 and 19 and pigments are mentioned in column 19, line 47. Betso et al. reveal 10-94.9% magnesium hydroxide or calcium hydroxide, 5-50% zinc oxide or magnesium oxide, 0.1-20% HALS and 0.5 to 20% polyolefins in claim

1. See also column 12, lines 40-63 for HALS. For polyolefins, see from column 13, line 62 to column 16, line 9. UV absorbers and pigments are mentioned in column 18, lines 10-15. It would have been obvious to one having ordinary skill in the art; at the time the invention was made, to select applicant's metal compounds in the claimed

ratios from a list of equivalents. ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 14-28 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 0 421 933 or EP 0 212 559.

10. The examiner will elucidate this rejection after the removal of the new matter.

Applicant is referred to the Remarks to the Preliminary Amendment in the grandparent application for the particulars.


Priority

11. The current status of all nonprovisional parent applications referenced should be included.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Peter Szekely
Primary Examiner
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P.S.
3/4/04

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